

# **EXHIBIT D**

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10 UNITED STATES DISTRICT COURT

11 NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION

12 WAYMO LLC,

13 Plaintiff,

14 vs.

15 UBER TECHNOLOGIES, INC.;  
16 OTTOMOTTO LLC; OTTO TRUCKING  
LLC,

17 Defendants.

CASE NO. 3:17-cv-00939-WHA

**WAYMO'S DAMAGES CONTENTIONS  
PURSUANT TO PATENT LOCAL RULE  
3-8**

1 Pursuant to N.D. Cal. Local Patent Rule 3-8, Waymo LLC (“Waymo”) provides the  
 2 following statement regarding its damages stemming from Defendants’ patent infringement in this  
 3 case:

4 Waymo believes it has suffered and is suffering irreparable harm as a result of Defendants’  
 5 patent infringement, particularly to the extent Defendants have infringed Waymo’s patents for the  
 6 purpose (and with the result) of fast-tracking its LiDAR development. Waymo accordingly plans  
 7 to seek injunctive relief.

8 In addition, Waymo believes it is entitled to damages for Defendants’ past patent  
 9 infringement, including damages based on a calculation of lost profits or an amount no less than a  
 10 reasonable royalty. To the extent an injunction is not granted, Waymo will also seek damages,  
 11 based on the same theories, tied to any continuing use of Waymo’s patents.

12 With respect to the factual bases for Waymo’s contentions, Waymo refers to and  
 13 incorporates by reference the briefing, declarations and evidence submitted in connection with its  
 14 Motion for a Preliminary Injunction (Dkt. 25 and related filings), as well as the Court’s order  
 15 granting-in-part the same (Dkt. 426). These facts include that Defendants’ use of the patented  
 16 technology saved them time and resources with respect to developing LiDAR and entering the  
 17 relevant markets. These facts also include that Waymo and Defendants are direct competitors  
 18 with respect to entering the relevant markets.

19 Discovery in this case is ongoing. Waymo has sought permission from Special Master  
 20 Cooper to serve damages-related discovery. Such discovery was not included in Waymo’s initial  
 21 three sets of requests for production, as Waymo had not anticipated that requests for production  
 22 would be limited in number. Accordingly, Waymo does not have all of the information that it  
 23 needs to formulate an appropriate “computation[] of damages” at this time. To calculate damages  
 24 stemming from Defendants’ patent infringement, Waymo expects to rely on the following  
 25 information, to the extent it is produced by either side in this case (or by relevant third parties):

- 26 • Estimates of future profits and cash flows from both Waymo and Defendants;
- 27 • The parties’ assessments and projections regarding the relevant markets, competition
- 28 therein, and their respective competitive position;

- The parties' respective investments in LiDAR technology (in time, capital, engineering costs, and other expenditures);
- Information regarding non-infringing alternatives to the patents-in-suit; and
- Information regarding Defendants' valuation and acquisition of the technology-in-suit, and any technical milestones that Defendants have established for the same.

Waymo reserves the right to supplement, modify or add to this response as circumstances dictate and in accordance with the Federal Rules, the Local Rules, and any order issued by the Court.

DATED: June 26, 2017

QUINN EMANUEL URQUHART & SULLIVAN,  
LLP

By /s/ Charles K. Verhoeven

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